



CITY OF CULVER CITY

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September 18, 2018

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Subject: Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84; Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, WT Docket No. 17-79

Dear Ms. Dortch:

The City of Culver City has concerns about the Federal Communications Commission's proposed Declaratory Ruling and Third Report and Order regarding state and local governance of small cell wireless infrastructure deployment. In summary, if passed, the FCC ruling would erode Culver City's ability to determine time, place and manner of small cell site installations within its public right-of-way, which are rights we currently possess. Such practices as the City requiring the undergrounding of unsightly equipment in existing underground districts and charging a reasonable fee for use of the public right of way are in jeopardy.

While we appreciate the Commission's efforts to engage with local governments on this issue and share the Commission's goal of ensuring the growth of cutting-edge broadband services for all Americans, we remain deeply concerned about several provisions of this proposal. Local governments have an important responsibility to protect the health, safety and welfare of residents, and we are concerned that these preemption measures compromise that traditional authority and expose wireless infrastructure providers to unnecessary liability.

The FCC's proposed new collocation shot clock category is too extreme. The proposal designates any preexisting structure, regardless of its design or suitability for attaching wireless equipment, as eligible for this new expedited 60 day shot clock. When paired with the FCC's previous decision exempting small wireless facilities from federal historic and environmental review, this places an unreasonable burden on local governments to prevent historic preservation, environmental, or safety harms to the community. The addition of up to three cubic feet of antenna and 28 cubic feet of additional equipment to a structure not originally designed to carry that equipment is substantial and may necessitate more review than the FCC has allowed in its proposal. Culver City maintains dozens of different types of streetlights from various manufacturers, and many are several

decades old. Each type requires a structural review to determine how much additional weight it could handle, and 60 days may not be a sufficient amount of time to do so.

The FCC's proposed definition of "effective prohibition" is overly broad. The draft report and order proposes a definition of "effective prohibition" that invites challenges to long-standing local rights of way requirements unless they meet a subjective and unclear set of guidelines. While the Commission may have intended to preserve local review, this framing and definition of effective prohibition opens local governments to the likelihood of more, not less, conflict and litigation over requirements for aesthetics, spacing, and undergrounding. Culver City has spent millions of dollars creating underground utility districts to improve the aesthetics in these areas, and the proposed declaratory ruling endangers them.

The FCC's proposed recurring fee structure is an unreasonable overreach that will harm local policy innovation. We disagree with the FCC's interpretation of "fair and reasonable compensation" as meaning approximately \$270 per small cell site. Local governments share the federal government's goal of ensuring affordable broadband access for everyone, regardless of their income level or address. That is why many cities have worked to negotiate fair deals with wireless providers, which may exceed that number or provide additional benefits to the community. Additionally, the Commission has moved away from rate regulation in recent years. Why does it see fit to so narrowly dictate the rates charged by municipalities? While Culver City may establish a small cell site rental fee in the future, other cities already charge from \$1,000 to \$4,000 for each location annually.

The City of Culver City has worked with private businesses to build the best broadband infrastructure possible for our residents. We oppose this effort to restrict local authority and stymie local innovation, while limiting the obligations providers have to our community. Culver City urges you to oppose this Declaratory Ruling and Report and Order. If you have any questions, or if you wish to discuss this further, please contact Charles D. Herbertson, Director of Public Works & City Engineer at (310) 253-5600 or via e-mail at charles.herbertson@culvercity.org.

Sincerely,



Thomas Aujero Small
Mayor

cc: The Honorable Dianne Feinstein, U.S. Senate
The Honorable Kamala Harris, U.S. Senate
The Honorable Karen Bass, U.S. House of Representatives
The Honorable Members of the City Council
Charles D. Herbertson, P.E. & L.S. Director of Public Works & City Engineer